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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,310	08/24/2005	Yves Bader	HT3930USPCT	6435

7590 10/01/2007  
John E Griffiths  
E I Du Pont De Nemours and Company  
Legal Patent Records Center  
4417 Lancaster Pike  
Wilmington, DE 19805

EXAMINER
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BEFUMO, JENNA LEIGH

ART UNIT	PAPER NUMBER
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1771

MAIL DATE	DELIVERY MODE
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10/01/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/524,310	<b>Applicant(s)</b> BADER ET AL.	
	<b>Examiner</b> Jenna-Leigh Befumo	<b>Art Unit</b> 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 5-23 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/05</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1 – 23 are pending.

#### ***Specification***

2. The disclosure is objected to because of the following informalities: the terms “poly-m-phenylenisophthalamid”, “poly-p-phenylenterephthalamid”, “polybenzimidazol”, and “polyamidimid” are misspelled.

Appropriate correction is required.

#### ***Claim Objections***

3. Claims 5 – 23 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend, directly or indirectly on another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.
4. Claim 20 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim must refer to multiple claims in the alternative. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.
5. Claim 1 is objected to because of the following informalities: “polybenzimidazol” and “polyamidimid” are misspelled. Appropriate correction is required.
6. Claims 3 – 4 are objected to because of the following informalities: the phrase “independently to each other” is grammatically awkward. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 1771

8. Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by WO 03/039280 (English Translation).

WO 03/039280 discloses a composite fabric comprising two superimposed fabrics which are connected together by yarns to form pocket regions (page 3). The fabric can be made from para-amide or meta-aramid fibers (page 2). Thus, claim 1 is rejected.

9. Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

10. Claims 1 – 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Graham et al. (5,685,347).

Graham et al. discloses a woven fabric comprising an upper and lower fabric woven simultaneously and causing the fabrics to be combined in selected areas of a desired shape to produce enclosed or substantially enclosed spaces, i.e., the applicant's claimed pockets (column 1, lines 52 – 57). The fabric is woven from synthetic yarns such as polyamide or polyester, or other yarns such as aramid, carbon, glass, or ceramic fibers (column 2, lines 27 – 31). The yarns can be in the form of monofilament, multifilament, or staple fiber yarns (column 2, lines 32 – 33). The fabrics woven in the examples use single yarns (column 5, lines 17 – 24). Thus, claims 1 – 4 are rejected.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2 – 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 03/039280.

Art Unit: 1771

The features of WO 03/039280 have been set forth above. While WO 03/039280 discloses that the fabric is woven from warp and weft threads, WO 03/039280 fails to teach the structure of the threads. However, yarn structure is well known. Yarns are commonly made from one of multifilament, monofilament, or spun yarns. Further, the yarns are produced by using single yarns or twisted yarns. Thus, it would have been obvious to one having ordinary skill in the art to choose a known yarn structure, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416. The claims would have been obvious because using a known yarn structure, within the known options of the art, to make the warp and weft yarns in the fabric of WO 03/039280 would have lead to anticipated success as a result of ordinary skill.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Foster (3,061,839) and Faircloth (3,359,610) are both drawn to double layered woven fabrics with pockets wherein part of the fabric can be treated with heat to shrink the fibers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (571) 272-1472. The examiner can normally be reached on Monday - Friday (8:00 - 5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1771

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jlb  
September 27, 2007

/Jenna-Leigh Befumo/  
Primary Examiner  
Art Unit 1771